

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

December 6, 1999

DIVISION ONE

[illegible]

The judgment is affirmed.

Masterson, J.

We concur: Ortega, Acting P.J.
Vogel (Miriam A.), J.

B130649 People (Not for Publication)
v.
McCullough

The judgment is affirmed.

Masterson, J.

We concur: Ortega, Acting P.J.
Vogel (Miriam A.), J.

B129074 People (Not for Publication)
v.
Lewis

The judgment is affirmed.

Masterson, J.

We concur: Spencer, P.J.
Ortega, J.

December 6, 1999-Continued

DIVISION TWO

[illegible]

The Court:

The order imposing a restitution fine pursuant to Penal Code section 1202.4, subdivision (b), in the amount of “\$200.00 per year from defendant’s prison earnings” is reversed, and the matter is remanded for imposition of a restitution fine pursuant to Penal Code section 1202.4, subdivision (b), in a precise amount that does not exceed \$2,200.00 and for imposition of a parole revocation fine pursuant to Penal Code section 1202.45 in the same amount as the restitution fine imposed pursuant to Penal Code section 1202.4, subdivision (b). The parole revocation fine must be suspended unless and until appellant’s parole is revoked. In all other respects, the judgment is affirmed.

Boren, P.J., Cooper, J., Mallano, J. (Assigned)

B125806 Zakharia (Not for Publication)
v.
Zakharia

The order appealed from is affirmed.

Boren, P.J.

We concur: Nott, J.
Mallano, J. (Assigned)

B130665 Desai (Not for Publication)
v.
Farmers Insurance Group., et al.

The appeal is dismissed as moot. Appellant to bear all costs on appeal.

Boren, P.J.

We concur: Nott, J.
Mallano, J. (Assigned)

December 6, 1999-Continued

DIVISION TWO (Continued)

106888-99

The HONORABLE ROBERT M. MALLANO, Judge of the Los Angeles Superior Court, Los Angeles County, is hereby assigned to assist the Court of Appeal, Second Appellate District, Division Two, as a Justice thereof, on the following dates:

January 3, 2000 To February 29, 2000

and until completion and disposition of all causes and matters submitted pursuant to this assignment including, if necessary by reason of a vacancy or disqualification of a Court of Appeal justice, all petitions for rehearing arising out of such causes and matters.

This assignment does not extend to any matter in which the panel would be composed of two justices pro tempore.

Dated: December 6, 1999

Ronald M. George
Chief Justice of California and
Chairperson of the Judicial Council

106889-99

The HONORABLE ALLAN J. GOODMAN, Judge of the Culver Municipal Court District, Los Angeles County, is hereby assigned to assist the Court of Appeal, Second Appellate District, Division Two, as a Justice thereof, on the following dates:

January 3, 2000 To March 31, 2000

and until completion and disposition of all causes and matters submitted pursuant to this assignment including, if necessary by reason of a vacancy or disqualification of a Court of Appeal justice, all petitions for rehearing arising out of such causes and matters.

This assignment does not extend to any matter in which the panel would be composed of two justices pro tempore.

Dated: December 6, 1999

Ronald M. George
Chief Justice of California and
Chairperson of the Judicial Council

December 6, 1999-Continued

DIVISION THREE

B128826 People (Not for Publication)
v.
Julian Ayrs

The judgment is affirmed.

Klein, P.J.

We concur: Croskey, J.
 Aldrich, J.

B132176 Los Angeles County, D.C.F.S. (Not for Publication)
v.
Edward T.

The appeal is dismissed.

Klein, P.J.

We concur: Croskey, J.
 Aldrich, J.

B134152 Los Angeles County, D.C.F.S. (Not for Publication)
v.
Eusebio V.

The appeal is dismissed.

Klein, P.J.

We concur: Croskey, J.
 Kitching, J.

December 6, 1999-Continued

DIVISION THREE (Continued)

[illegible]

The judgment is affirmed.

Croskey, Acting P.J.

We concur: Aldrich, J.
Schneider, J. (Assigned)

B128237 People (Not for Publication)
v.
Garcia

The judgment is modified by awarding appellant a total of 520 days presentence credit, including 67 days conduct credit, and, as modified, is affirmed. The trial court is directed to amend the abstract of judgment to reflect that credit award and the trial court's imposition of a \$200 restitution fine pursuant to Penal Code section 1202.45.

Croskey, Acting P.J.

We concur: Kitching, J.
Schneider, J. (Assigned)

B121842 People (Not for Publication)
v.
Legans

The judgment is modified by imposing a \$500 restitution fine pursuant to Penal Code section 1202.45 and, as modified, is affirmed. The trial court is directed to forward to the Department of Corrections an amended abstract of judgment reflecting the above.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

December 6, 1999-Continued

DIVISION THREE (Continued)

[illegible]

The judgment is modified by reversing the true finding as to the allegation that, based on a January 16, 1990, federal conviction for armed robbery in case No. 92678-012, appellant suffered a prior felony conviction under the Three Strikes Law; by vacating the stay of the Penal Code section 667.5, subdivision (b) enhancement; and by imposing a \$50 laboratory analysis fee (Health & Saf. Code, § 11372.5, subd. (a)), plus related state and county penalty assessments of \$50 (Pen. Code, §§ 1202.4, subd. (a)(2), 1464, subd. (a)), and \$35 (Gov. Code, § 76000, subd. (a)), respectively. As modified, the judgment is affirmed. The matter is remanded for, if the People so elect, a retrial on the 1990 prior felony conviction allegation, and for resentencing consistent with this opinion. The trial court is directed to forward to the Department of Corrections an amended abstract of judgment following resentencing.

Croskey, Acting P.J.

We concur: Aldrich, J.
Schneider, J. (Assigned)

DIVISION FOUR

B130931 Pearlson (Certified for Publication)
v.
Does 1 To 646

The judgment (order of dismissal) is affirmed.

Hastings, J.

We concur: Vogel (C.S.), P.J.
Epstein, J.

DIVISION FOUR (Continued)

B128057 Jacke-Lumas (Not for Publication)
 v.
 County of Los Angeles et al.

The order dismissing the respondents Edward Vidaurri, Noreen Noel, Mary Ann Stump and Jane Morton from this action is reversed, and, insofar as respondents Elaine Lomas and Carla Vlick, the order is affirmed. The matter is remanded for further proceedings in accordance with the views expressed here. Appellant shall recover her costs.

Dau, J. (Assigned)

We concur: Vogel (C.S.), P.J.
 Hastings, J.

B121020 Midiman
 v.
 Farmers Insurance Company

Filed order modifying opinion. (No change in the judgment)

B128828 People (Not for Publication)
 v.
 Alonzo

The judgment is affirmed.

Hastings, J.

We concur: Vogel (C.S.), P.J.
 Curry, J.

December 6, 1999-Continued

DIVISION FOUR (Continued)

[illegible]

The judgment is affirmed.

Curry, J.

We concur: Vogel (C.S.), P.J.
Epstein, J.

B125600 People (Not for Publication)
v.
Jimenez

The judgment is affirmed.

Vogel (C.S.), P.J.

We concur: Hastings, J.
Curry, J.

DIVISION FIVE

B125587	Diagnostic Imaging Services, Inc., et al. v. Gerald Dalrymple et al.	(Not for Publication)
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The trial court's order is reversed to the extent it imposes \$5,586 in sanctions for the deposition of Howard Berger as the person most knowledgeable about the sale of DIS-California to Diagnostic Health Services, Inc. In all other respects, the sanctions order is affirmed. Each side to bear its own costs on appeal.

Godoy Perez, J.

We concur: Turner, P.J.
 Armstrong, J.

December 6, 1999-Continued

DIVISION FIVE (Continued)

B127557 People (Not for Publication)
v.
Jimmie Jones et al.

The matter is remanded for resentencing for appellant Jones on the three stayed section 667.5 enhancements, with directions to either strike with a statement of reasons or impose those enhancements. The one-year enhancements imposed on appellant Hall pursuant to Health and Welfare Code sections 11370.2 and 11370 are stricken and the matter is remanded for resentencing for appellant Hall on the section 11370.2 enhancements. The court is instructed to strike or impose the two three-year enhancements pursuant to Health and Welfare section 11370.2 The judgment of conviction is affirmed in all other respects.

Armstrong, Acting P.J.

We concur: Grignon, J.
Godoy Perez, J.

B130586 Annette Leon (Not for Publication)
v.
Gregory Leon

The judgment is affirmed. Respondent(s) to recover costs.

Armstrong, Acting P.J.

We concur: Grignon, J.
Godoy Perez, J.

DIVISION SIX

B129072 Global Income Management Company
v.
Auto Buyers Credit Corporation et al.

Filed order modifying opinion. Petition for rehearing is denied. (No change in the judgment)

December 6, 1999-Continued

DIVISION SIX (Continued)

106867-99 THE HONORABLE RICHARD W. ABBE, Retired Associate Justice of the Court of Appeal, Second Appellate District, Division Six, is hereby assigned to assist the Court of Appeal, Second Appellate District, Division Six, as a Justice thereof, on the following dates:

December 1, 1999 to December 31, 1999

and until completion and disposition of all causes and matters submitted pursuant to this assignment including, if necessary by reason of vacancy or disqualification of a Court of Appeal Justice, all petitions for rehearing arising out of such causes and matters.

This assignment does not extend to any matter in which the panel would be composed of two justices pro tempore.

December 1, 1999

Ronald M. George
Chief Justice of California and
Chairperson of the Judicial Council